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Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields

Follow-up to the outcome of the Millennium Summit

Letter dated 19 July 2005 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to transmit the position paper of the Russian Federation on reform of the institutions and mechanisms of the United Nations in the area of human rights (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the General Assembly under agenda items 45 and 55.

(*Signed*) Andrey **Denisov**

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Annex to the letter dated 19 July 2005 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

Position of the Russian Federation on reform of the United Nations in the area of human rights

1. The Russian Federation has been a consistent supporter of strengthening the institutions and mechanisms of the United Nations in the area of human rights, including in such aspects as enhancing the functioning of the Commission on Human Rights, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the human-rights-treaty bodies. We are convinced that the only measures for reform of the United Nations human-rights sector that are capable of yielding a positive result are those with a system-wide character which take into account the opinions of all concerned Member States and thereby enjoy the broadest support.

In that connection, the Russian Federation welcomes the attention given to this issue in the report of the High-level Panel on Threats, Challenges and Change entitled "A more secure world: our shared responsibility" (A/59/565 dated 2 December 2004), and in the report of the Secretary-General entitled "In larger freedom: towards development, security and human rights for all" (A/59/2005 dated 21 March 2005). We are also hoping for a constructive and thematic discussion of the problems of reform during the forthcoming millennium review summit and sixtieth session of the General Assembly.

At the same time, Russia calls for caution to be exercised on reform issues. Excessive haste could exacerbate existing problems in the human-rights sphere instead of solving them.

2. The Russian Federation believes that the Secretary-General, in his report "In larger freedom", accurately pointed to three key areas where the Organization's work at the current stage is of most significance, from the point of view of achieving the purposes and principles of the Charter of the United Nations and regarding the need to adapt the system to new challenges and threats. The Secretary-General is correct in his remarks about the interrelationship between, and the complementarity of, advances in the areas of development, the enjoyment of security and the observance of human rights, and in his remarks about politicization and confrontation in this sphere.

However, the measures proposed by the Secretary-General — particularly regarding reform of human-rights components, including the abolition of the Commission on Human Rights and the establishment, based upon it and replacing the Trusteeship Council, of the Human Rights Council — require thorough and complex research into all the consequences arising from such steps as well as broad consultations with all interested parties, with the participation of States, OHCHR and certain non-governmental organizations.

This approach is explained not by a desire to slow down the reform process but by recognition of the importance of human-rights issues, including integrating human-rights components, in all areas of United Nations work, within the framework of the reform policy announced by the Secretary-General.

3. The most important measure for reforming the human-rights sector of the United Nations, as proposed by the High-level Panel and the Secretary-General, is the idea of transforming the Commission on Human Rights into a Human Rights Council and elevating the status of the future body from a functional commission of the Economic and Social Council to a subsidiary organ of the General Assembly or a main Charter body of the United Nations.

This proposal appears to be useful and worthy of support, as is the proposal to assign the Council the status of a subsidiary organ of the General Assembly. However, conferring upon the Council the status of a Charter body is not advisable, particularly because implementing that proposal would lead to an unjustified narrowing of the functions of the most representative mechanism of the Organization — the General Assembly — leaving the Third Committee with only social problems. Furthermore, when addressing the issue of a possible change in the status of the Commission on Human Rights, the full range of potential consequences of such a step needs to be analysed, including the effect on the functioning of the Economic and Social Council.

The most effective and legitimate format for the Council could be the expansion of its membership to universal membership, as proposed in the report of the High-level Panel. Human rights and freedoms are universal values, and the development of inter-State cooperation in the sphere of human rights was established as one of the main purposes of the Charter.

However, in the event of a lack of consensus on universal membership, the Russian Federation would be willing to agree to a small reduction in the composition of the new human-rights body, provisionally from the 53 in the existing Commission to between 48 and 50 in the Council. At the same time, it is important to maintain the current principle of election by a simple majority of votes through the regional groups. Attempts to agree on any additional criteria seem rather unrealistic and at variance with the established practice for elections to United Nations bodies of limited membership. The main intergovernmental human-rights body of the United Nations system should not turn into a kind of "select club".

Furthermore, the Russian Federation believes that it is unacceptable to limit the opportunity for simultaneous membership by one country in all three United Nations councils: the Security Council, the Economic and Social Council and the Human Rights Council.

We are convinced that a standing Human Rights Council will entail significant additional financial costs and will cause organizational difficulties at the initial stage. The advisability of the future body's meeting on a weekly basis is also unclear, since it cannot be claimed that problems in the human-rights field are so acute and critical that such a schedule of meetings should be set a priori for the future body. The Russian Federation therefore favours maintaining a sessional format of work for the new institution with the possibility of calling special meetings, under a simplified procedure, to discuss current urgent issues, including those related to a worsening human-rights situation in any part of the world.

The proposal for the new human-rights body to adopt a peer-review mechanism is of some interest. However, this requires an equal, fair and universal approach to which the principle "the fewer the human-rights obligations, the fewer the responsibilities" will not apply. We must also bear in mind the objective

difficulties of a certain group of States which hamper the observance of the full range of human-rights standards according to any sort of universal "model".

4. Taking into account the need for additional intergovernmental consultations on transforming the Commission on Human Rights into a Human Rights Council, including on the status of a future human-rights body, it would be best to establish an open-ended working group of the General Assembly, whose mandate would include reaching agreement on a full range of issues relating to the Council's mandate, composition, working methods, procedure for elections and so on. At the end of its discussions, the working group should submit a report to the General Assembly at its sixtieth session for approval. The group should also avoid all categorical wording on any of those issues in the final report of the millennium review summit.

The Russian Federation maintains that the Commission on Human Rights should not be abolished until such time as all the parameters have been agreed for the functioning of a possible new main intergovernmental human-rights body. Furthermore, it is important to preserve all of the Commission's positive experience, including aspects related to the establishment of new human-rights standards and the functioning of basic special procedures. This, however, does not mean abandoning the need to improve the working methods of the special procedures.

5. The Russian Federation commends the plan of action submitted by the United Nations High Commissioner for Human Rights, Louise Arbour, in May 2005, as called for by the Secretary-General. We share the concern of OHCHR about the lack of adequate resources to operate normally. Clearly, one of the first steps in that direction must be to increase the share of financing of OHCHR from the United Nations regular budget. Meanwhile, of course, the principle of zero growth in the budget must also be strictly observed.

The Secretary-General's proposal concerning the active involvement of the High Commissioner in the work of the Security Council and the proposed peacebuilding commission poses no major problems. Moreover, the Russian Federation considers that the Secretary-General himself must continue to be responsible for the implementation by the entire United Nations Secretariat of all the provisions of the resolutions of the main organs, including the Security Council and the General Assembly.

Furthermore, we believe it to be important to take measures to ensure the fullest possible implementation of the recommendations contained in the report of the Joint Inspection Unit on the management review of OHCHR (A/59/65-E/2004/48), especially the issue of human-resource management at OHCHR. We believe that it is unacceptable to ignore the principle of equitable geographical distribution in recruiting OHCHR staff. The Russian Federation accordingly supports the intention of the High Commissioner, Louise Arbour, to make efforts to resolve this problem.

6. The Russian Federation also supports the foregoing High-level Panel and the proposal by the Secretary-General to enhance the effectiveness of the operations of the human-rights-treaty bodies. We also consider that the problem of reforming the treaty bodies is not limited to establishing a harmonized set of guidelines for the drafting and submission of periodic reports by the States parties to the relevant international treaties.

We believe that monitoring mechanisms established in accordance with the major international human-rights treaties fill an important role in the development of common approaches to the understanding of human-rights standards.

A paradoxical situation has now arisen in which the system for submitting periodic reports works more or less adequately only because most States do not meet their obligations to submit these reports to the committees within the deadlines established under the relevant international agreements. This situation cannot be considered normal, as any system must operate not despite but by virtue of its underlying principles. There is a need to find ways of resolving this problem.

We doubt that a transition to submitting a single report to all the treaty bodies is immediately practicable. It seems that to carry out such a measure might lead to reducing the quality of the reports submitted, which is one of the conditions for constructive dialogue between States and members of the committees.

We also consider that the prospects for the proposals to introduce significant amendments to the texts of the international human-rights agreements concerning the operations and working methods of the treaty bodies themselves are gloomy, given the complex mechanism for reaching agreement on such amendments at the international level. It will sometimes be quite enough to take specific "technical" measures at the level of the committees themselves (modifying the rules of procedure of the treaty bodies, changing the scope of dialogue with State parties, more thorough recruitment of candidates for positions as expert members of the committees, and other measures) as well as at the level of OHCHR (expanding the implementation of programmes of technical assistance, conducting seminars and round tables on the issue of the operation of treaty bodies and submission of reports, among other things).

In the view of the Russian Federation, the initial measures must include the following. First, all human-rights-treaty bodies must make a transition to the submission by States of their periodic reports according to a harmonized schedule. A transition to a harmonized schedule, or at least setting four years as the minimum requirement, is a measure that makes good sense and is feasible from a legal and practical point of view. A specific period of time must elapse before States parties could carry out adequately and appropriately the concluding recommendations of a treaty body concerning the results of its consideration of a periodic report. During that period the State would have to adopt the relevant legislation and other legal regulations, which must begin to work before it could fully assess the results of the changes.

In addition, this step might also be accompanied (supplemented) by still other measures, such as a formal authorization by the committees for the States to submit all at once several combined periodic reports. This is already occurring de facto, such as in the case of the Committee on the Elimination of Racial Discrimination and the Committee against Torture. Furthermore, the treaty bodies must make more use of the practice of requesting interim information on issues and areas that raise the most concern on the part of the committees, including on the implementation of certain concluding observations and recommendations put forward after consideration of the relevant periodic report.

Secondly, another measure that might enhance the effectiveness and output of the human-rights-treaty bodies' activities would be the transition by all committees

to the practice of timely drafting and transmission to States parties of written questions in connection with the forthcoming consideration of the next periodic report. Timely transmission of questions by the committees to States parties might enable the States to better prepare for the forthcoming dialogue with the experts of the relevant body.

Thirdly, all committees in which such a practice is still maintained must give up the procedure of appointing country rapporteurs on the periodic report of any State. Experience has shown that in such cases the appointment of rapporteurs and co-rapporteurs allows only those members of the committee to truly become acquainted with the contents and analyse the provisions of the report submitted. The practice of appointing such experts "in charge" of the reports is at the least counterproductive and a needless waste of the limited time allocated for dialogue between the treaty body and the government delegation of the State party. Therefore, the practice should be given up.

Fourthly, all treaty bodies must take stock of the general observations and decisions on specific matters made by them (officially, the views on communications) and prepare their comments on the substantive provisions of the relevant treaties concerning specific human rights and freedoms which are still lacking. Such a step would lead to enhancing not only the practice of submitting and defending periodic reports but also significant harmonization of the legal systems of the States parties, taking into account the interpretation which human-rights-treaty bodies can give to specific rights and freedoms established in the texts of the human-rights treaties.

Fifthly, all committees should harmonize their rules of procedure and requirements for submitting periodic reports. In many State parties, including the Russian Federation, the same departments are often responsible for drafting reports on various human-rights agreements. In practice, this often means that the relevant government structures confuse the varying requirements and working methods of the treaty bodies. Therefore, such a measure would satisfy the interests of States in meeting as fully and properly as possible their obligations under the main international human-rights treaties.

Of course, this is not an exhaustive list of possible measures. In addition, carrying them out can produce the desired result — enhancing the effectiveness of international monitoring of human rights with respect to treaty bodies' activities — only if there is the corresponding fine-tuning by both the treaty bodies themselves and the States parties to the major international human-rights treaties.

We also consider it important to continue the practice of conducting informal forums of States with the involvement of committee experts for discussion of the issues of reform of the human-rights-treaty bodies. The meeting in Malbun, Liechtenstein, in May 2003 was particularly useful.